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ASPECTS OF INDUSTRIAL HOMEWORK
in
APPAREL TRADES

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ASPECTS OF INDUSTRIAL HOMEWORK
IN
APPAREL TRADES

by

Isaac Teper and Nathan Weinberg

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The problem of industrial homework, always serious in the apparel trades, took on new urgency with the passage of the Fair Labor Standards Act. Though a declining method of production, homework was given a new lease on life when Federal regulation of wages and hours put a premium on a system of production which defies all attempts at regulation.

Historically, homework has been utilized as a means of defeating legislation designed to raise labor standards. The conditions which such legislation sought to abolish were banished from the factory, only to find refuge in thousands of scattered homes. Long after child labor, night work by women, and unhygienic working conditions had largely disappeared from mill and workshop, they persisted in the slum tenements and rural dwellings where homework was performed. Periodic investigations of homework have evoked outbursts of public indignation at the conditions revealed. To the question of what could be done about the evils of homework, the answer of every investigating agency has been a call for the abolition of the system itself. A mistaken notion of what would best serve the welfare of the homeworkers, however, has almost always led to a decision to allow time for adjustment to factory methods of production. The administrators charged with keeping the evil within bounds through regulation, pending the time when the universally accepted goal of abolition would be achieved, have invariably reported that their efforts were futile.

Meanwhile the homework system has been on the decline. Unable to meet the competition of more efficient factory production, it has sought to perpetuate itself by constantly forcing downward the standards of the homeworkers. Thus those on whose behalf

abolition of the system has been postponed have found their conditions going from bad to worse. But as factory efficiency grows the decline of homework continues, no matter to what depths homework wages are reduced. Its decline is interrupted only when the raising of factory standards, coupled with the impossibility of controlling the conditions of homeworkers, gives new impetus to the practice. Homework today has been reduced to the status of a marginal method of production existing only on the fringes of a few industries where technological advance has not yet rendered it impossible. The present diminished extent of homework makes relatively easy the adjustment to a universal system of factory production. Thus the ground has been cut from under the now ancient plea that more time must be allowed before making an end to the homework system.

Though much reduced in the extent to which it is utilized, industrial homework retains its capacity for harm. Even where practiced on a small scale its damaging effects make themselves widely felt in the highly competitive industries where homework persists. Employers see in it a destructive method of unfair competition. Factory workers find it a constant menace to their hours, wages and working conditions. The homeworkers themselves feel that it is a method of perpetuating their poverty by depriving them of opportunities for more remunerative factory employment. The public bears the burden of the system through the necessity of supplementing through relief and charity the woefully inadequate wages paid by homework employers. Public policy with regard to hours, wages and child labor, as expressed by Congress and the State legislatures, is thwarted through the impunity with which homework defies regulation.

In the following pages an attempt is made to trace the experience of a single industry, the manufacture of women's garments, with homework. What this experience shows is the natural evolution of the industry from a homework to a factory basis; the forces operating to delay the complete disappearance of homework; the failure of attempts to regulate the inherent evils of the homework system; and the ease with which the transition to factory production was made where serious efforts toward abolition of homework were undertaken.

The history of clothing manufacture in this country is essentially a history of evolution from household occupation through industrial homework to factory enterprise.

In the early days of the Republic, the production of clothing was confined in the main to the homes of the potential wearers.* Only those who were well situated had their garments made by tailors and tailoresses or imported the clothes from abroad.** Although isolated instances of ready-to-wear production in this country were reported during the eighteenth century***, clothing manufacture did not become solidly established until the 1820's. The original stimulus to manufacture of clothing ahead of demand was provided by the needs of the sailors whose stay in port was frequently limited; later, the demand was fostered by the needs of the emigrants

* "It is computed in a number of districts that two-thirds, three-fourths and even four-fifths of all the clothing of the inhabitants are made by themselves" (Alexander Hamilton, Report on Manufactures (1791), in his Works, I, 211)

** It is reported that close to \$1,500,000 worth of clothing was imported in 1721 (Victor S. Clark, History of Manufactures in the United States, I, 108). Competition to domestic producers must have been severe, and the Freeholders of Boston passed a resolution in 1767 in which they suggest the desirability of lessening imports and encouraging domestic manufacture of "Men and Womens Hatts, Mens and Womens Apparel ready made...Gloves...Muffs, Furrs and Tippetts, and all sorts of Millenary Ware...Womens and Childrens Stays" among a long list of other products (Resolution passed on October 28, 1767 and cited in an Almanach published in 1786 (title page missing))

*** An early instance of ready-to-wear production was reported in Northfield, Mass., around 1725 (U.S. Department of Commerce and Labor, Report on Condition of Woman and Child Wage-Earners in the United States, IX, 120)

to the newly discovered California gold fields and by the demand of the Southern plantation owners for clothing for themselves and for their slaves.* An 1832 report stated that "it has become usual of late years for most of the tailors to keep on hand a large stock of ready made clothing."** During that year there were on record 100 tailors in Boston who made "garments of every description ... mostly for home consumption and slop clothing for navy and merchant ships."***

Although the beginnings of clothing manufacture seem to lie in New England, production of ready-to-wear soon spread to New York, Philadelphia, and elsewhere. It was customary to send work out to be made by home workers. Thus, the Massachusetts "Tables of Industry" for 1837 reported that during that year some 2,500 women were employed in the making of clothes in the city of Boston, but that inasmuch as many of the dealers followed the custom of sending garments out to be made up on farms and in country villages, the total number of employees was much greater.**** By 1844 the situation was such that "every country village within 100 miles of New York

* Chauncey M. Depew, editor, 1795-1895: One Hundred Years of American Commerce, II, 561ff.

** U.S. Treasury Department, Documents Relative to the Manufactures in the United States, Collected and Transmitted to the House of Representatives, in Compliance with a Resolution of Jan. 19, 1832, I, 464.

*** Ibid., I, 463f.

**** Massachusetts, Tables of Industry, 1837, p. 28.

became as busy as a beehive with tailors and tailoresses."* When German immigrants came over in the forties, they introduced "the family work shop" as well as the first division of labor. "The German tailor took coats, vests, and pants to his home and was there assisted by his wife and daughters, the work being roughly divided into machine sewing, basting, and finishing. The family home shop in the clothing trade appearing among the Germans at that time is peculiar to the German people," says one student of the problem.** Although most of such production consisted of men's apparel, a certain amount of women's wear was produced as well.***

The invention of the sewing machine and its subsequent improvements opened the way to production on a larger scale. The Civil War, a few years later, provided an additional stimulus by causing a large demand for military uniforms; while many were imported from abroad, the native industry thrived under a large volume of orders. Although originally uniforms were made in the homes of the workers, as the demand increased numerous factories were established.**** The manufacture of ladies' cloaks and mantillas on a larger scale started

* Workingman's Advocate, July 13, 1844.

** Mabel Hurd Willett, The Employment of Women in the Clothing Trade, p. 33.

*** For example the Impartial Humane Society of Baltimore produced in 1830, through home workers, in addition to men's apparel, such items as children's suits, cloaks, and mittens, women's and children's aprons, women's plain dresses and bonnets (Mathew Carey, Appeal to the Wealthy of the Land, 3rd ed., p. 18).

**** Depew, II, 562f.

at about the same time.* By 1858, factories making mantillas, corsets, and other women's clothing were reported in Philadelphia, though men's clothing manufacture continued to predominate in that city.** In New York a factory making plain underwear for ladies and children, lingerie, and infants' robes was doing business in 1868.*** Around that time a large hoop skirt factory, which converted "steel rods into finished skirts" was established on West Twentieth Street in New York.**** Several years later, a number of dressmaking establishments came into being.***** A Congressional report submitted in January, 1893, describes the industrial trend in the following words:

Twenty-five years ago it [the production of clothing] was so exclusively custom and family made that probably less than 25% was "ready made"; that is, manufactured in advance of individual demand. By 1880 the proportion of so-called "ready-made" clothing had increased to probably 40% of all men's wear used in the country, and by 1890 this proportion (which has since increased) had risen to above 60%; while the "ready-made" system had involved a large and increasing proportion of women's wear -- leaving, at present, of the great variety of under and outside clothing, of both sexes and all ages, only outside dresses of women still in general specially made for the individual*****

Although, as pointed out above, the immediate effect of the introduction of the sewing machine was to lead to the establish-

* "The manufacture of cloaks and mantillas, as a wholesale business, dates its introduction into this country within the last ten years." (E.T. Freedley, Philadelphia and its Manufactures, 1859, p. 225).

** Freedley, p. 223.

*** The Revolution, March 12, 1868.

**** Louis Levine, The Women's Garment Workers, p. 6.

***** The Revolution, February 9, 1871.

***** U.S. House of Representatives (52nd Cong., 2nd sess.), Report of the Committee on Manufactures on the Sweating System, January 20, 1893, pp. iv f.

ment of factories, this trend was temporarily arrested by competition from industrial homework which provided a cheaper method of production.* Garments were farmed out to contractors, some of whom produced them in their factories while others gave them out to the "sweaters".** Two types of industrial home work were represented in the "sweating" system of the '90s. Writes W.F. Willoughby:

It should be noticed that there are two distinct kinds of "sweating", that of the sweat shop proper, where the sweater lives in a room and has a number of men and women, working under his direct oversight and that of the home worker, where the head of the family takes work from a sweater, which he carries home to be completed by himself and family**

The tenement work shop in a sense represented a stage of industrial expansion of the home worker's enterprise. In addition to the members of his family, the growing "business" employed additional hands. The widespread practice of working in the tenements is illustrated by the testimony of an outdoor visiting physician for the New York Infirmary for Women and Children whose district extended from

* Numerous manufacturers abandoned their factories and began sending the work out. One manufacturer testified in 1892 that until recently he had manufactured on his own premises, but that he now gave work outside, in New York City, Staten Island, and even as far away as Maine (Report of the Committee on Manufactures on the Sweating System, pp. 13f); a Boston manufacturer testified that twenty years previously "almost every well-regulated clothing house had a factory of its own at the shop building," and that "almost none" now exist, except that "some large retailers, notably Mucullar, Parker & Co., still pursue the plan of manufacturing their own garments within their own premises" (Ibid., p. 30); Abraham Bisno testified that Chicago ladies' cloak firms, Beifeld & Co., and Leigh Brothers, discontinued manufacturing in inside factories and gave work to the "sweaters" (Ibid., pp. 93f.).

** W.F. Willoughby, "The Sweating system in the United States", in Herbert B. Adams, Editor, Monographs on American Social Economics, p. 4.

Twenty-third Street to Chatham Square on the East side. Between December 1, 1891 and August 1, 1892, Dr. Daniel visited 153 homes, and in 77 cases she found manufacturing of some sort of article in progress. Most of the work was on clothing. The largest number of persons were engaged in tailoring, usually as "finishers". The second largest group consisted of seamstresses who made boys' shirt waists, undergarments for men and women, babies' white muslin dresses, embroidery, buttonholes, men's neckties, and artificial flowers. In this work women were assisted by their children.*

It would appear that the utilization of sweatshop labor as a means of producing ready-made garments reached its peak around 1892.** From that time on a decline in the amount of industrial home work in the apparel field definitely becomes apparent. Particularly noticeable in the first decade was the decline of the tenement work shop aspect of industrial home work. It was natural that this be the case. With increased production of apparel, better methods of subdividing work were discovered. Invention of special machines, such as the button-hole machine, played a role in this connection. Further-

* Report of the Committee on Manufactures on the Sweating System, pp. 194f. Dr. Daniel reported the case of one home where the mother was engaged in manufacturing babies' lawn dresses. "The mother makes the buttonholes and does the fine work. The girl of 12 runs the sewing machine, stitching the seams, and tucking. The girl of 8 years cuts the embroidery, does some buttoning, and sews the buttons ... I asked the mother what the child of 6 years did -- at the time he was ill with the measles. 'Oh, you know he's a half idiot, and can do nothing.' Evidently, the fact that he was too young to work never occurred to her." (Ibid., p. 196)

** The Committee investigating sweating noted that some 50 per cent of all clothing manufactured originated in tenements: 25 per cent in the tenement work shops, and another 25 per cent among tenement home workers (Report of the Committee on Manufacture on the Sweating System, pp. v, vii)

more, the increased utilization of electric power for the running of sewing machines made it more advantageous to bring the work back into the factories.* This natural trend toward the factory method of production was accelerated by the anti-sweatshop agitation which deeply stirred the public mind and which threatened to brand all ready-made garments as vermin-infested and disease-carrying.** Beginning with 1892, a number of states passed legislation designed to control and regulate the tenement work-shops.*** The rising labor movement in the needle trades played its role in the elimination of the home work by providing in its agreements with the employers for the outlawing

* The transition to a factory basis was facilitated by the fact that at first many of the practices of homework were transferred to the factory along with the homeworkers. Workers were for some time required to supply their own machines and machine stands, to provide their own needles, oil and thread, and to pay a charge for the electricity used, for the seats they sat on in the factory, etc. (Cf. Levine, p. 173f; Willott, p. 46)

** Among the various public groups which agitated against the sweatshop system may be listed the National Consumers' League, organized in 1899, which enlisted in this crusade the efforts of such organizations as the Women's Christian Temperance Union and the National Council of Jewish Women. (Cf. National Consumers' League, Report of the First Quarter Century of the National Consumers' League, 1899-1924)

*** Cf. U.S. Census Office, Twelfth Census, IX-3, 298f.; U.S. Children's Bureau, Publication No. 234: Industrial Home Work under the National Recovery Administration, p. 3; John R. Commons and John B. Andrews, Principles of Labor Legislation (4th edition), pp. 205f. A law controlling tenement work in cigar making was passed in New York at an earlier date, but was declared unconstitutional.

of homework.*

The trend away from home work was sufficiently noticeable by the beginning of the twentieth century for the Industrial Commission to conclude in 1902:

Originally the sweating system was a system of working at home, whither the tailor with his family and a few helpers carried the goods which they were to prepare for the merchant. The home work or tenement house work of former years has largely disappeared, especially for the manufacture of ready-made garments, owing particularly to legislation directed against it in the years

* Organized labor showed an early interest in the question of industrial home work. In 1892 the Chicago Trades and Labor Assembly even employed a special investigator to investigate the sweating system (Report of the Committee on Manufactures on the Sweating System, p. 71). In 1893 the Operators' and Cloak Makers' Union No. 1 of New York City, then affiliated with the United Garment Workers, listed among its demands: "Home work and night work should be abolished", and "All garments should be cut by the firms and made up by their contractors and not by 'second-hand' manufacturers" (Levine, p. 80). The United Cloth Hat and Cap Makers, after a thirteen weeks' strike in 1904-5, secured a collective agreement one of whose provisions outlawed the tenement sweatshop and home work (J.M. Budish and G. Soule, *The New Unionism in the Clothing Industry*, pp. 76f.). Between 1900 and 1910 the International Ladies' Garment Workers' Union actively fought against homework and sweatshops; by 1910 its attorney estimated that 75 per cent of the New York cloak manufacturers were covered by agreements outlawing home work. When the union, after a protracted strike, was negotiating its first collective agreement with cloak manufacturers' association, the demand for the abolition of home work was accepted by the manufacturers without a dissent and without discussion. (Minutes of joint conference between ten delegates of the Joint Board of the Cloak, Suit and Skirt Makers' Unions and ten delegates of the Cloak, Suit and Skirt Manufacturers' Protective Association, July 28, 1910, "The Cloak Makers' Strike", a collection of documents published by the Protective Association, p. 41). In 1912, the American Federation of Labor went on record as favoring the abolition of industrial home work. (American Federation of Labor, *Report of Proceedings, 1912*, p. 139)

following the influx of immigrants fifteen years and more ago. At the same time, also, the progress of the industry has demonstrated the greater economy of separate shops, where a larger number can be employed upon the same garment with a more minute division of labor.*

Similarly, another government investigation undertaken in 1911 commented as follows:

Though the garment trades are backward in their industrial development, their history shows a distinct movement away from the home, through the small shop, to the factory. For many years the ready-made business, except for the cutting of garments, was almost entirely a home industry. With the subcontract system came the sweat shop. But for several years past there has been manifest a distinct tendency away from the subcontract or sweating system toward the factory system. In 1901 Prof. John R. Commons reported that, though 10 years before probably 90 per cent of women's ready-made garments were made by people who worked for contractors, at that time fully 75 per cent of such work had passed into the hands of "manufacturers". The manufacture of overalls, too, which was in the early years one of the most poorly paid of the home trades, has now become practically a factory industry. Men's coats and overcoats are also increasingly a factory product.**

The movement away from home work was also fostered by the increased growth of labor organization among the workers. In the ladies' garment field, the first collective agreement signed in the New York market in 1910 between the union and the cloak manufacturers provided in its fourth article: "No work shall be given to or taken to employes to be performed at their homes."*** By 1913 similar prohibitions were incorporated in similar agreements covering entire branches of the industry in New York City (dresses and waists, white

* U.S. Industrial Commission, Report, XIX, 741.

** Report on condition of Woman and Child Wage-Earners, IX, 155.

*** The text of this agreement, the so-called Protocol of Peace, may be found in Levine, p. 542f.

goods, children's dresses, and house dresses) in Boston (cloaks, dresses and waists) and in Philadelphia (cloaks). The practice of eliminating homework by prohibiting it in collective agreements has been continued, and today the overwhelming number of unionized establishments in contractual relationship with the International Ladies' Garment Workers' Union either provide outright for the outlawing of the industrial home work or prohibit it by restricting the work to unionized establishments. (See Appendix for the discussion of industrial home work in the current agreements of the I.L.G.W.U.). Union activity, however, even though reinforced by favorable public opinion and regulatory legislation, was unable to eradicate industrial home work completely in the garment industries.

Why does industrial home work persist? Not all employers are in contractual relations with labor organizations, and not all branches of the industry are equally well organized. Those who are unorganized or in branches of the industry where the union is relatively weak remain free to distribute homework. Yet, from the employers themselves frequent complaints are heard as to the relative inefficiency of industrial home work as a production method.*

* Homework employers repeatedly complained to investigators regarding the inefficiency of homework, referring to waste due to spoilage, costly delays, inability to correct mistakes because of lack of personal supervision, etc. (Cf. New York State, Division of Women in Industry and Minimum Wage, Report to the Industrial Commissioner on a Review of the Operation of Homework Order No. 3 and Recommendation for the Continued Regulation of Homework in the Artificial Flower and Feather Industry, p. 5; U.S. Children's Bureau, Publication No. 234: Industrial Homework under the National Recovery Administration, p. 23; its Publication No. 244: Prohibition of Industrial Homework in Selected Industries Under the National Recovery Administration, p. 16f.)

The answer lies of course in the fact that through the utilization of industrial home workers it is possible to secure labor at virtually no wages, labor whose compensation and working hours are beyond any possible governmental surveillance and control. Were it possible to regulate hours and wages in industrial home work, it would have disappeared long ago, and industrial home workers would have found jobs in factories, doing work identical with that now done in their homes.* In this lies the crux of the problem.

Writing in 1895, the New York factory inspector pointed out:

It must be said, notwithstanding the improvement noted, that the sweat shop evil has not been eradicated. Only the surface conditions have been bettered. The long hours, small wages, with a constant tendency to lengthen the former and reduce the latter, still continue, and will always be a part of the clothing industry in this country while the law permits the contractors to farm out the clothing to families and pit one family against another.**

The homeworkers themselves are completely incapable of bringing about any improvement in their conditions and this strengthens the attraction of the homework system for some employers. For, as

* Some employers attempt to distinguish between the processes performed by homeworkers and those done in the factory, claiming that home work is confined to hand operations. As the many homework investigations show, both hand and machine work may be found in homes. Similarly, large numbers of hand workers are employed in factories. For example, in the New York Metropolitan area out of a total of 85,000 factory workers employed in the dress industry, 10,400 are finishers, 2,000 are examiners, and 4,700 are cleaners, all of these being hand occupations (Julius Hochman, *Industry Planning Through Collective Bargaining*, p. 45).

** Quoted in Willoughby, p. 17.

stated in a report issued by the Department of Commerce and Labor in 1911:

Shop workers brought into close contact with each other, can unite in a refusal to accept less than a specified minimum, but among homeworkers such common action is difficult and unlikely, owing to their isolation. It is easier to bargain with and handle these scattered workers, all of which adds to the desirability of the home workers from the manufacturer's standpoint.*

Such advantages as these, plus the fact that employers manage to save on factory space and accompanying overhead expense,** still constitute the main reason for the existence of industrial home work. As pointed out by the U.S. Women's Bureau in 1937:

Earnings for industrial home work not only are low in themselves, but they tend to lower factory wage standards. They oblige the factory employer to cut costs to meet the competition of the low-selling home-work product, and at the same time the home-work manufacturer is seriously exploiting the home. For under the industrial home-work system the manufacturer passes on to the individual home many of his overhead expenses, such as rent, heat, light and other normal work requirements, even machinery -- as, for example, in the sewing processes where the worker furnishes her own sewing machine; in knitting, her own needles. Furthermore, the home worker usually is responsible for getting and returning the work, or has to pay for such delivery from her meager receipts. She is responsible for spoiled work and either has to pay cash for spoiled materials or has to make corrections without pay.

* Report on Condition of Woman and Child Wage-Earners, II, 303f.

** "rather than pay rent for ... additional room, the factory is spread over innumerable bedrooms and kitchens. It means for the employers an actual saving in rental, in heating, lighting, furnishing, and otherwise so equipping a shop as to meet legal requirements, as well as a saving in shop supervision" (Ibid., II, 302).

Often she must make an initial cash deposit to cover cost of all material until she is paid for the work. Frequently she must make several samples of a pattern at her own expense before she can begin on paid work. In these ways the manufacturer keeps his costs so low as to give him an unfair competitive advantage, so that he can undersell the man who maintains an establishment and pays the normal overhead costs.*

In the last analysis the basis for the continued existence of industrial home work is low wages.** While, as indicated above, homework employers complain frequently of inefficiency, the cost of the latter is offset by the savings on overhead and wages. As pointed out by a New York State report on the artificial flower industry:

Homeworkers offer formidable competition to factory workers, not only for employment, but also as to wages and labor standards. Whole families working at home earn less than a flower maker in the shop. At the peak of the season, weekly and hourly earnings of individual homeworkers are from one-half to two-thirds the earnings of the flower makers in the factories. It seems reasonable to conclude that it is largely because of the competition of home-workers that the majority of the women factory workers in the industry are unable to earn wages sufficient for self support even during the busiest week of the season, and that wages of women in this industry compare unfavorably with those of some of the lowest wage industries found in the State.***

* U.S. Women's Bureau, Bulletin No. 155: Women in the Economy of the United States of America: A summary report, p. 69.

** Many homeworkers have to have their earnings supplemented by home relief. In 1935, one-fourth of Philadelphia homeworkers in the infants' and children's field were from home relief families (U.S. Women's Bureau Bulletin No. 155, p. 70). In Chicago a study showed 24 per cent of home work families dependent on public assistance because of low earnings (Ruth White, "Industrial Homework in Chicago" in Social Service Review, March, 1936, p. 55).

*** New York State Department of Labor, Bulletin No. 199: Homework in the Artificial Flower and Feather Industry in New York State, p. 64.

The employment of homeworkers becomes an especially attractive proposition when wages are regulated by legislation. As one writer aptly pointed out: "Wage rates are not, like sanitary arrangements, hours, and so forth, things easily detected by the watch or nose of an inspector."* Instances were found during the N.R.A. when homeworkers unable to earn the minimum rates in the factory were discharged and urged by their employers to do the same work in their homes.** Similarly, home work is used today to avoid compliance with the standards provided by the Fair Labor Standards Act. One writer, a former inspector of the homework division of the New York State Department of Labor, points out:

Soon after the Wage and Hour Law became effective ... reports were widespread that manufacturers were withdrawing work from their factories, and had arranged to have the same done in homes. These reports, if true, could mean only one thing. The manufacturers were making drastic efforts to secure competitive advantages through a saving of labor costs. This practice if permitted to continue would unquestionably prove a most effective obstacle to effective enforcement of the Wage and Hour Law.***

* A.C. Pigou, The Economics of Welfare, 4th ed., p. 534.

** U.S. Children's Bureau, Publication No. 234, p. 42.

*** Ruth Enalda Shallcross, Industrial Homework, p. 178.

In this connection must be noted the difficulties of enforcing the provisions pertaining to overtime compensation or to child labor. Various agencies have frequently referred to the impossibility of securing evidence of child labor law violations in cases of industrial homework because before the door is opened to the inspector there is ample time to hide all signs of work by children.* To discover violations of overtime provisions is well nigh impossible without stationing an inspector in every home where industrial homework is carried on. In fact, resistance to the abolition of homework is based in large part on the fact that its disappearance would close off an avenue whereby the regulation of hours of work may be defied with impunity. As far back as the turn of the century one investigation found that:

The main objection brought by clothing manufacturers against the prohibition of home work and the contractor's sweat shop is the necessity of working long hours during the busy seasons. The factory system, under the customary factory laws, would restrict employment to 58 or 60 hours a week, whereas when working at home or in sweat shops employment during the busy season can extend to 12 or 14 hours a day and even longer in individual cases since the law does not apply to home workers, and is difficult of enforcement in the sweat shops ... This objection, in view of existing legislation regulating hours in this industry, lacks force.**

Employers of homeworkers, even if they desired to, can not keep accurate records of hours worked unless they supervise

* See, among others, Connecticut Department of Labor and Factory Inspection, Minimum Wage Division, Homework in the Fabricated Metal Industry of Connecticut, pp. 66f; Pennsylvania Department of Labor and Industry, Bureau of Women and Children, Industrial Homework in Pennsylvania in 1936, p. 7; U.S. Children's Bureau, Publication No. 234, p. 9.

** U.S. Industrial Commission, XIX, 742.

each worker individually. Generally, no attempt is made to keep track of hours. That the enforcement problem presents almost insurmountable difficulties is made clear by the New York Department of Labor:

The large number of homework families, the temporary nature of their work, the constant shifting of residence of families at the poverty level, the difficulty of obtaining true addresses for families on relief rolls, the carelessness and ignorance of some employers, and the economic advantage to them from concealment of the facts, all operate against effective regulation...*

Abuse of workers and violation of the spirit and letter of the law are not new things in industrial home work. Underpayment and mistreatment of homeworkers dates at least from the first half of the nineteenth century.** "The worst features of this state of things", commented the New York Daily Tribune in 1845, "are its hopelessness and its constant tendency from bad to worse. Small as are the earnings of these seamstresses, they constantly tend to diminish."*** In addition to paying next to nothing, it was reported that many employers required their employees to make a deposit equal to the full value of material taken out to be made up, a deposit frequently not returned to the worker when the slack time came.**** In addition to such deductions, earnings were frequently not paid in full. "We have known instances," said the Tribune, "where these

* New York Department of Labor, Bulletin No. 199, p. 68.

** As early as 1828, considerable agitation in which Mathew Carey played a leading role, called public attention to the wretched condition of homeworkers. (Cf. Mathew Carey, "To the Ladies Who Have Undertaken to Establish a House of Industry in New York", and "To the Editor of the New York Daily Sentinel" in his Miscellaneous Pamphlets, Phila., 1831).

***New York Daily Tribune, March 7, 1845.

****Ibid., June 8, 1853.

professedly fair priced houses have for successive weeks paid but 50 cents on account, and when work became scarce have postponed settlement day after day, till the patience of the claimant has been exhausted, and she has been compelled to give up her claim.**

When as a result of abject conditions in the clothing industries in the nineties, public attention was focused on the sanitary aspects of clothing manufacture in the homes of the workers, a number of states enacted legislation directed against tenement manufacture. By 1904 twelve states, including a number of the most important industrially, had passed laws prohibiting certain types of work in tenements by persons other than members of the family residing therein, requiring permits to give out and receive home work, and setting up standards of sanitation for tenement house work rooms. Several of these laws required the labeling of articles produced in unsanitary surroundings.** However, these statutes seemed to have been more honored in the breach than in the observance, and reports of widespread violation and evasion were heard almost before the ink had dried. Massachusetts manufacturers, required under an 1892 statute to label garments produced in tenements under unsanitary conditions, began increasingly to ship work out to be made up in New York, New Jersey, Maine and other states.*** A Chicago sanitary inspector

* Ibid.

** U.S. Children's Bureau Publication No. 234, p. 3; John R. Commons and John B. Andrews, pp. 205f; U.S. Census Office, Twelfth Census, IX-3, 298f.

*** John Crowley, secretary of the Anti-Tenement House League, testified that he found clothing being made in New York tenements for Boston, Philadelphia and Chicago firms (Report of the Committee on Manufactures on the Sweating System, pp. 110f.). Similar testimony was offered in a letter from the chief of the Massachusetts Bureau of Statistics of Labor who wrote that the amount of work sent from Boston to New York was increasing at the expense of Boston contractors (Ibid., pp. 229f.).

testified in 1892 to "a great deal of evasion" encountered.* A congressional committee making field visits in Boston found not only sanitary violations but homework performed on premises completely unknown to the local inspectors.** The secretary of the Anti-Tenement House League told the same committee that on the basis of his field visits it was evident that conditions in the tenement workshops were growing worse despite the Massachusetts statute. The manufacturers' compliance with the law, he reported, stopped at lip service. They were using the existence of the law to allay the public's fear of contagion, as much as to say: "Everything is clean now. We have got two inspectors, and you needn't fear now. There is no more danger."*** Similar conditions were found in New York.**** Several other witnesses testified to non-enforcement of the labeling laws, school laws, and laws requiring a minimum number of cubic feet of air per worker.***** No wonder the Committee adopted as its own the position of the several witnesses who advocated the abolition of home work.*****

Eight years later, another Federal investigation turned up almost identical conditions. Mr. James B. Reynolds, head worker of the University Settlement Society of New York City, testified that the enforcement of the state laws led merely to the "transfer of the evil from one State to the other. That is, you will ac-

* Testimony of Mary B. Glannon, in *ibid.*, p. 95.

** *Ibid.*, p. 148.

*** *Ibid.*, p. 112.

**** *Ibid.*, p. 199.

***** *Ibid.*, pp. 74, 94, 102, 126, and 225.

***** *Ibid.*, pp. 94, 96, 198 and xxviii.

comply what we accomplished about 5 years ago when we pitched into the sweatshops and they simply moved from New York to New Jersey." He also pointed out that "the enterprising Massachusetts garment maker sends to New York and has the goods made up and then brings them back and has the Massachusetts label put on" because Massachusetts goods commanded a premium based on the public's belief that they "are more likely to be made up under sanitary conditions."* A witness from Pennsylvania reported that the Board of Health in that State "cannot enforce its regulations; clean them out one day and they come back the next day."**

Further investigation in 1910 revealed that home work still defied regulation. Some manufacturers were brazen enough to describe to Federal investigators the practices they followed in evading the home work laws. Witness the following report of an interview with a clothing manufacturer:

"Finishing on pants is usually done in the homes of the workers. Practically all pants are finished in homes. Vests are seldom or never finished in homes. We make expensive clothing. The laws have been so adjusted that work can not be done in homes unless licensed. Because of these strict laws, some people have inside shops for this work. If a garment is made in a tenement which is dirty or where there is an infectious disease, it does not hurt the wearer. Pressing with a hot iron will kill any germ. Once in a while we have had garments made in unlicensed homes. The factory inspectors labeled them 'Made under unsanitary conditions,' but we always tore the label off." Here one of his office force got very nervous and made certain motions to the employer, who then added: "That is, we don't tear the label off in New York State; we send

* U. S. Industrial Commission, XIV, 86

** Ibid., XV, 195

it over to New Jersey, and it comes back to us minus the labels. It's none of the New York factory inspector's business what is done with garments that go to New Jersey, and so we do not break the law." One wonders if the garments are really sent across on the ferry thus to preserve the dignity of the law.*

There is hardly a report on home work down to the present day which does not tell the same story of evasion and violation of laws regulating home work and the use of home work to evade laws regulating factory labor conditions. It is unnecessary here to trace experience with attempts at regulation in detail; but it is evident from a sampling of the literature that what held true in 1892, 1900, and 1910 applies with equal force to the period since. A Massachusetts study published in 1915 declared that "Licensing has failed in Massachusetts....More than one-half the families visited at work on wearing apparel were not licensed."** A Pennsylvania study revealed that in 1921 only 20 per cent of the home workers reporting had licenses as required by law. Home workers were found who had never heard of the licensing requirement.*** Laws regulating child labor in factories resulted in an increase of child labor on home work and "The very evils which the law attempts to correct, children bear in increased numbers, laboring in the home often under conditions of more evil import than those in the factory."**** Similarly, home

* Report on Condition of Woman and Child Wage Earners, II, 303f.

**Boston Women's Educational and Industrial Union, Department of Research, Industrial Home Work in Massachusetts (Prepared under the joint direction of the Massachusetts Bureau of Statistics and Amy Hewes, Supervisor of Investigation for the Department of Research) p. xiv.

*** Pennsylvania Department of Labor and Industry, Industrial Homework in Pennsylvania (1921), p. 91.

**** Ibid., p. 64.

work provided a means of evasion of the law regulating the hours of labor for women. Factory workers were given garments to make in their homes at night after regular factory hours.*

A nation-wide offensive against the evil of industrial homework took place during the N.R.A. In a number of apparel codes industrial home work was prohibited. The industries which took such a stand did so either because the problem was of such a minor character as to make any discussion of the subject purely academic or because the majority of employers in the industry realized that industrial homework threatened any fair competitive practices that the codes might help to develop. The first three codes to prohibit homework were Coat and Suit, Corset and Brassiere, and Men's Clothing. The coat and suit industry decided to incorporate a provision prohibiting homework into the code solely as a "statement of principle and as an indication that the achievement of former years would be maintained under the code."** Corset and brassiere manufacturers readily agreed that it was important to abolish homework, on sanitary grounds, "since the products of this industry are customarily worn next to the body".*** In the manufacture of men's ready-to-wear, where industrial

* Ibid., p. 126

** National Recovery Administration, Division of Review, Work Materials No. 45: N.R.A. and Industrial Homework, p. 24

*** Ibid., p. 25; Code of Fair Competition for the Corset and Brassiere Industry, as Approved on August 14, 1933, article 5. There was little homework at that time in the Corset and Brassiere industry. The factory system was well established in that industry by 1913, and although some homework was done at that time, factories giving it out stated their preference for doing the work in the factories (Connecticut Commission to Investigate the Conditions of Wage-earning Women and Minors, Report, 1913, p. 94). An investigation of children doing industrial homework in New Jersey, made in 1925 revealed that out of 1131 cases of homework, only 24 involved work on brassieres and corsets (U.S. Children's Bureau, Publication No. 185: Child Labor in New Jersey, II, 19).

homework had not been fully eliminated prior to that time, labor and management agreed unanimously during negotiations to abolish homework, but allowed three months as a period of adjustment.* It is of interest to note here that the experience of this industry was that 94 per cent of homeworkers were taken into the factory, thus indicating that "prohibition of homework is not impracticable from the standpoint of either the manufacturer or the homeworker."**

In all there were 118 industries which incorporated provisions with regard to homework in their N.R.A. Codes of Fair Competition.*** Of the 22 industries manufacturing various items of

* "In the manufacture of men's ready-made clothing...it was not until some years after the organization of the Amalgamated Clothing Workers in 1914 that any real progress was made in the elimination of homework through union agreement. In Chicago and Cleveland, decisions rendered by arbitration boards in 1920 provided for the abolition of homework. In Rochester, although the agreement between the Amalgamated Clothing Workers and the Clothier's Exchange, first signed in 1920 and renewed periodically thereafter, provided that homework was to be abolished, the provision was never fully enforced until the period of the National Recovery Administration." (Frieda Miller, Industrial Home Work in the United States, in International Labour Review, January, 1941, p. 27). Cf. also NRA Division of Review, Work Materials #45, p. 24.

** U.S. Children's Bureau, Publication No. 244: Prohibition of Industrial Home Work in Selected Industries under the National Recovery Administration, p. 26.

*** Homework provisions were found in the codes for the bulk of the industries in which the problem existed. Of the total, 17 provided for the regulation of homework by limiting the number of homeworkers, by restricting the practice to specific branches of the industry, or by establishing regulations aimed at providing for homeworkers earnings equal to those of factory employees. The 101 codes which contained homework prohibitions included 72 codes which prohibited the practice after the effective date of the code, 19 which allowed a period of adjustment, ranging in most cases from 1 to 6 months for the transfer of homework to the factory, and 10 codes which incorporated the terms of the Executive order of May 15, 1934, which exempted from homework prohibitions those homeworkers who were physically handicapped and those "unable to leave home because his or her services are absolutely essential for attendance on a person who is bedridden or

(ctd. on next page)

apparel for women, twenty-one codes had some provision regarding homework. The one exception was the code for the Covered Button industry where the absence of a homework provision is accounted for by the fact that there is no homework problem of any significance in that industry. Of the 21 codes with homework provisions, 17 provided for complete abolition of homework -- twelve on the effective date of the code,* and five at a specified future date.** The remaining four

(ctd) an invalid" (N.R.A. Division of Review, Work Materials No. 45, p. 116; Executive Order No. 6711-A, prescribing rules and Regulations for the Interpretation and Application of Certain Labor Provisions of Codes of Fair Competition as They May Affect Certain Homeworkers). It may be noted that the abolition of industrial homework under the codes was in major part the work of the employers. In practice labor provisions of the codes "were initiated by the management groups except in a few industries in which labor was strongly organized." (U.S. Committee of Industrial Analysis, National Recovery Administration House Doc. No. 158, 75th Cong., 1st sess. 7 p. 14.) In only 11 industries out of 557 covered by basic codes is there definite evidence of joint preliminary negotiations and determination of provisions by employers and employees (Ibid., p. 83).

* They were: Academic costume; blouse and skirt; celluloid button, buckle and novelty manufacturing; coat and suit; corset and brassiere; dress manufacturing; rainwear division of rubber manufacturing industry; robe and allied products; shoulder pad manufacturing; undergarment and negligee; underwear and allied products; and women's belt.

** They were: Artificial flower; men's garter, suspender and belt manufacturing; pleating and stitching; and schiffli, the hand machine embroidery, and the embroidery thread and scallop cutting; and knitted outerwear. The latter code provided for the abolition of hand knitting, hand crocheting, hand embroidering, and hand sewing of machine made parts of garments one year after the effective date of the code; in the meantime the workers were to be compensated in accordance with piece rates to be established. (Code of Fair Competition for the Knitted Outerwear Industry, as approved on December 18, 1933, Article VI.) However, two stays of this provision were issued, one postponing the effective date to April 1, 1935 (Administrative Order No. 164-36, dated February 4, 1935), the other to May 15, 1935 (Administrative Order No. 164-41, dated February 27, 1935).

codes either prohibited all but specified types of home work or limited the proportion of homeworkers permitted.*

All of the codes applicable to the manufacture of items of women's apparel where homework was a significant factor recognized industrial homework as an evil about which something had to be done. Practically all of them either provided for outright abolition of homework or contemplated its eventual abolition. This held true for those industries where homework was so widely prevalent as to require drastic readjustments as well as for those where the transition to a factory basis had to be made by only a small segment of the

* They were: Cotton garment; infants' and children's wear; handkerchiefs; and women's neckwear and scarfs. The Cotton garment code provided for the prohibition of all machine sewing in the homes within three months from the effective date of the code, and made an exemption for "what is known in the trade as turning collars which have a laundry wash in the factory before shipping" (sic), whenever an application was made to the Code Authority, and also permitted "homework on hand embroidery, which is incidental to the manufacture of cotton garments" (Code of Fair Competition for the Cotton Garment Industry as approved on November 17, 1933, article VII). The Infants' and Children's Wear Code prohibited all homework on sewing machines (Code of Fair Competition for the Infants' and Children's Wear Industry as approved on March 27, 1934, article v, section 8). The Code for the handkerchief industry at first prohibited homework except on handkerchiefs made entirely by hand and those wholesaling at \$3.50 or more a dozen, and on which the labor cost of the hand operation equalled 60 per cent or more of the total labor cost. (Code of Fair Competition for the Handkerchief Industry as approved on October 9, 1933, art. IV, sec. 8 and 9). A later amendment restricted industrial homework to handkerchiefs made entirely by hand but permitted such other homework as was performed by handicapped persons under the terms of the Executive order of May 15, 1934 (Amendment No. 2 to the Code of Fair Competition for the Handkerchief Industry as approved October 31, 1934); but the application of this amendment was stayed insofar as it applied to hand sewing and embellishment (Order Approving Amendment of Code of Fair Competition for the Handkerchief Industry, October 31, 1934). The Code for the Women's Neckwear and Scarf Manufacturing industry permitted homework in accordance with the Executive Order of May 15, 1934, but in addition permitted an employer to give out homework provided "at least one half of the total number of articles of each type are produced in a factory maintained by, or operated for" him (Code of Fair Competition for the Women's Neckwear and Scarf Manufacturing Industry, as approved on December 19, 1934, art. III, sec. 4).

industry.* Why then, it may be asked, were the employers anxious to incorporate such provisions into the codes for their industries? The answer lies in their recognition of the fact that it was futile to attempt to control wages and hours in industrial homework through

* Thus homework was prohibited in the artificial flower industry, despite the fact it had "always been a considerable factor" and was in fact regarded as "an integral part of the productive system" of the industry (Report of the Deputy Administrator on the Code of Fair Competition for the Artificial Flower and Feather Industry, appended to Approved Code No. 29 for the Artificial Flower and Feather Industry). In the garter, suspender and belt industry the number of homeworkers was estimated at about 700 to 1,000 as against somewhat less than 5,000 employed in the factories (Report of Hugh S. Johnson, Administrator of the N.R.A. to the President, dated November 2, 1933, and appended to Approved Code No. 94 for the Men's Garter, Suspender and Belt Manufacturing Industry); yet homework was abolished by the code for this industry. Similarly homework was abolished in the pleating, stitching and bonnaz and hand embroidery industry, though there were "more workers employed by this industry in their homes than in factories" and with full recognition of the fact that "great difficulties in readjustment ... will be faced by every member of the industry". (Letter of transmittal, dated February 10, 1934, signed by Hugh S. Johnson, Administrator of the NRA and appended to Approved Code No. 276 for the Pleating, Stitching and Bonnaz and Hand Embroidery Industry). Similarly, the code for the Schiffli, the Hand Machine Embroidery, and the Embroidery Thread and Scallop Cutting industries abolished homework though it "presented a significant amount of the total production activities of the industry" (Report of Hugh S. Johnson, Administrator of the N.R.A., to the President, dated February 2, 1934, and appended to Approved Code No. 256 for the Schiffli, the Hand Machine Embroidery, and the Embroidery Thread and Scallop Cutting Industry).

regulations. This was frequently stated explicitly.*

Experience under the N.R.A. drove home the point that while abolition of the homework system can be carried through successfully, even the best administered attempts to control its evils through regulation are doomed to fail. Hours far in excess - in some cases more than double - the maximum number permitted by the codes, wages a fraction of the code minimums, and the persistence of child labor were found in every investigation of the effectiveness of regulation in those industries where it was attempted.** Regulation

* In connection with the garter, suspender and belt code, the Administrator pointed out: "The elimination of home work is believed to be the first step in the effective enforcement of the labor provisions of the code" (Report of Hugh S. Johnson, appended to approved Code No. 94, supra.). In connection with the pleating and stitching code the Administrator declared: "There can be no question that home work as carried on in the embroidery industry is a source of disaster in any attempts at organizing a stable industry. Evidence was offered at the public hearings and in the conferences to show that hand workers were paid as little as 5¢ an hour and that the highest rate paid for homework by even reputable manufacturers was 12¢ an hour, and these rates were for embroidery requiring years of training and the utmost skill and artistry. On work requiring less degree of skill or in preparation of work of high skill, when work is taken to the homes, the children of the household are employed in most of their spare hours. The impossibility of any cost accounting control and price cutting prevention under such conditions is self-evident. The abolishment of home work was therefore decided by an overwhelming majority in the industry, notwithstanding great difficulties in readjustment that will be faced by every member of the industry." (Letter of Transmittal, appended to Approved Code No. 276, supra.) Regarding the prohibition of homework in the schiffli embroidery industry, the Administrator stated: "This procedure seems essential in order to guarantee that the minimum wage and maximum hours provisions will be controlled and regulated." (Report of Hugh S. Johnson, appended to Approved Code No. 256, supra.)

** Reports of some of these investigations may be found in the following documents: NRA Division of Review, Work Materials No. 45, which reviews the general experience and on pages 200f. presents the results of an investigation of homework in the knitted outerwear industry; Pennsylvania Department of Labor and Industry, Bureau of Women and Children, Industrial Homework in Pennsylvania under the N.R.A.; U.S. Children's Bureau Publication No. 234, which analyzes the experience of the knitted outerwear industry, and infants' and children's wear industry, among several others; U.S. Children's Bureau Publication No. 244, which analyzes experience in the men's neckwear, men's clothing and artificial flower industry, among others.

proved a complete failure even in the cases of those workers who were issued certificates under the terms of the Executive Order of May 15, 1934.* In such cases, certificates were subject to the most stringent controls applied under the N.R.A. The Bureau of Women and Children of the Pennsylvania Department of Labor made an exhaustive study of the conditions under which such certificated workers labored. It found that 79.3 per cent of the certificates had been violated. In the infants' and children's wear industry, the certificates violated amounted to 91.7 per cent of the number issued. Violations were found as to hours, wages and child labor.** The study was made in an effort to determine whether the system of certification had accomplished its purpose - to set up standards in the home which would approximate the factory standards established by the Codes of Fair Competition. This was the Bureau's conclusion:

Homework can never be regulated...No matter how stringent the regulations, how great the enforcement, how honest the investigators, the sweatshop conditions will continue to exist unless homework is abolished. The conditions which exist are an integral part of industrial home work and only when processing of articles in employees' homes is abolished can the conditions growing out of this system of production disappear.***

* "The classes of homeworkers exempted by the Executive Order definitely represented only a small percentage of the total number of homeworkers. The homeworker system could not be expected to survive if so few homeworkers were permitted. By and large, the motives which had perpetuated the homework system as a phase of industrial production were not humanitarian. With all the economic advantages gone, it was not likely that a large number of manufacturers would continue sending work out to be done in homes simply because a few crippled, invalid, and aged persons needed the work to get along". (NRA Board of Review, Work Materials No. 45, p. 33)

** Pennsylvania Department of Labor and Industry, Bureau of Women and Children, Pennsylvania's Experience with Certificated Homeworkers, p. 5.

*** Ibid., p. 8.

The findings of the U.S. Children's Bureau did not differ from those of the Pennsylvania agency; as to the failure of N.R.A. attempts at regulation:

Under the National Recovery Administration great gains were made where the codes prohibited the giving out of homework. But in the industries in which homework was still permitted, even though limited by certain regulations, the ancient evils continued to exist and to constitute a menace to the higher labor standards that had been achieved for factory workers.*

N.R.A. regulation of homework marked a significant step forward in the handling of the homework problem in that the emphasis was shifted from protection of the consumer against the danger of contagion to protection of the homeworkers from the detrimental effects of low wages, long hours and child labor. In this respect, experience under the N.R.A. foreshadowed the problems which were later to be faced by the Wage and Hour Administration when it attempted to eliminate child labor from homework and to enforce minimum wages and maximum hours for homeworkers. The Women's Bureau summarized the difficulties involved in this type of regulation in a study of homework in Rhode Island under the N.R.A.:

The practice of having work done in the homes instead of in the factory always has been opposed by the Women's Bureau. Its main objection is based on the fact that effective regulation of homework is impossible. For example, the regulation of hours of work that has been satisfactorily enforced for factory workers in many states obviously is out of the question so far as homeworkers are concerned. Paid by the piece, homeworkers are tempted to put in longer hours of work than would be permitted in the factory, and they often work far into the night, a custom that has been abolished in many states in the case of factory work. Frequently, too, long hours of night work are made necessary because of the quantity of work sent out by the factory, often late in the day, to be finished and returned the

* U.S. Children's Bureau, Publication No. 234, p. 21.

next morning.

The regulation of wages is equally impracticable. Even though rates for home work were the same as for similar work done in the mill, which is rarely the case, many things contribute to make the actual earnings of home workers much less than those of factory workers. Often more is required of the home worker than of the worker in the mill, for example, folding or other preparation for distribution, usually not done by the production employees in the factory. More often, work done in the homes is not carried on in the factory, so that the wage rates are not fixed by any standard that the mill might have for its inside workers. The home workers themselves are at a disadvantage through lack of organization, if not lack of communication. Because of this they have difficulty in knowing just what wages they may rightly expect and in making any effective demand for a change.

The prevention of child labor also is practically impossible under a system of industrial home work. It is a temptation in families that eke out their existence by home work to increase their pitifully small earnings with the aid of even very small children.*

The success of those industries which attacked the homework problem by providing for outright abolition stands in sharp contrast to the experience of those whose codes did not go beyond regulation. There is general agreement that the code prohibitions of homework resulted in a substantial decrease in the total volume of such work. Pennsylvania, for example, reported:

The number of homeworkers reported by Pennsylvania employers decreased from 8,649 to 5,531 between September, 1933, and September, 1934, a drop of more than one-third. This decrease resulted mainly from the prohibition of homework by many NRA codes.**

* U.S. Women's Bureau, Bulletin No. 131; Industrial Homework in Rhode Island, p. 1.

** Pennsylvania Department of Labor and Industry, Bureau of Women and Children, Industrial Homework in Pennsylvania Under the NRA, p. 3. The Bureau points out that this decrease in the volume of homework was the net result of widely varying code provisions, homework in some industries where the codes permitted it having increased (Ibid., pp. 5f.). Cf. also for trend in the number of homeworkers' licenses issued in New Jersey during the N.R.A. period, U.S. Bureau of Labor Statistics, Bulletin No. 629, p. 178; and for Rhode Island's experience with the N.R.A. prohibition of homework in the jewelry industry, Bureau of Labor Statistics, Bulletin No. 619, p. 47.

Federal agencies had a similar tale to tell. The Children's Bureau stated that:

Investigators of the United States Department of Labor ... reported that they experienced considerable difficulty in locating persons actually engaged in homework in sections where in past years they had only to walk along certain streets to see entire families absorbed in work that was later abolished under the codes.*

With a view to determining the effect of NRA homework prohibitions the Children's Bureau made an investigation covering the men's clothing, men's neckwear, artificial flower and feather, medium and low priced jewelry manufacturing and tag industries, all of whose codes had provided for the abolition of homework. Out of the 117 employers investigated, the Bureau turned up only three who continued to distribute homework in violation of code prohibitions. At least a part of their former homeworkers had been brought into the factory by 93 of these employers. Three others had brought the work inside without increasing the number of their factory workers; and four had turned over the work formerly done by homeworkers to contractors who, in turn, had established themselves in shops and brought their homeworkers inside.**

The experience of these employers showed conclusively that "prohibition of homework is not impracticable from the standpoint of either the manufacturer or the homemaker."*** The manufacturers investigated reported, in general, that the difficulties of complying with the code prohibitions had not been so great as they had anticipated; that the expected labor shortages had not materialized; that homeworkers adjusted to factory routine with comparatively little

* U.S. Children's Bureau, Publication No. 234, p. 23.

** U.S. Children's Bureau, Publication No. 244, p. 11.

*** Ibid., p. 26.

difficulty; and that the work formerly done in the homes was performed much more efficiently in the factory at considerably higher rates of pay.*

A committee appointed by the President to prepare for him "an adequate and final review of the effects of the administration of Title I of the National Industrial Recovery Act" summed up the N.R.A. experience with homework in the following language:

NRA came to believe in the abolition of industrial homework, both because of its disastrous social and competitive effects and because of the difficulties it created in the way of establishing effective control and regulation of the terms and conditions of employment. ... The net result of the prohibition of home work was a marked decrease in the volume of home work in most industries, even in those in which the prohibition was not completely observed. The difficulties of enforcement were at a minimum in well-administered codes which made constant investigations and audits of employers' records. The Women's Bureau reported that employers felt that if all codes alike prohibited home work, so that no employer had the advantage over another, the abolition of homework could be satisfactorily effected. Nineteen industries that did not prohibit industrial home work provided for some type of control of it. It was found among the industries which merely required the establishment of registers of industrial home workers that this method did not provide an adequate means of controlling home work. Nor did the establishment of minimum piece rates provide a successful method of control. ... On the whole it was found that regulation of home work definitely decreased the number of home workers, transferred an increasing number of such workers back to the factory, and improved conditions among homeworkers considerably. Sometimes actual earnings rose almost 100 per cent. Nevertheless, home workers did not come to enjoy code wage standards, even in industries where the regulations were severe and enforcement was exacting. The evils of industrial homework continued under a regulated system in mitigated form. The provisions failed most conspicuously in regulating hours of employment and child labor. It was found that only complete prohibition could eradicate the evils of industrial home work.**

* Ibid., p. 26f.

** U.S. Committee of Industrial Analysis, p. 116f.

As soon as the N.R.A. was declared unconstitutional, thus ending the code prohibitions, homework volume turned sharply upward.* In order to escape State regulatory measures, where they existed, employers increasingly resorted to the device of shipping homework across State lines, thus conquering new territories for the sweatshop. The growth of this practice led the Division of Labor Standards to proclaim:

In view of the growing conclusion that homework as a method of industrial production must go, this tendency to perpetuate itself by reaching out into remote communities is especially significant. Already the interstate shipment of homework goods as a practical possibility has been demonstrated; and as the large homework States continue their fight toward abolition, the threat to the States in which it is not yet a problem is apparent.**

A study made in 1936 demonstrated that 194 manufacturers located in New York were escaping the strict regulations of that State by sending out work to be performed by 1,661 homeworkers in 16 states and Puerto Rico. Several of these states had no homework regulations of any type.***

Further impetus to homework was provided when the Fair Labor Standards Act was made law. Although this statute fixes minimum wages and working hours for home as well as factory employees, the difficulty of controlling standards of homeworkers was immediately recognized by certain employers. Less than three months after the

* An examination of data for the states requiring registration of homeworkers bears this out very clearly (Cf. U.S. Bureau of Labor Statistics, Bulletin No. 629: Labor Laws and their Administration, 1936, p. 178; Pennsylvania Department of Labor and Industry, Bureau of Women and Children, Industrial Homework in Pennsylvania under the NRA, p. 23; its Industrial Homework in Pennsylvania in 1936, pp. 3 and 8; New York Department of Labor, Annual Report of the Industrial Commissioner for the Twelve Months Ended December 31, 1936, p. 66).

** U.S. Division of Labor Standards, Interstate Shipment of Industrial Homework, November 5, 1936, pp. 5f.

*** U.S. Bureau of Labor Statistics, Bulletin No. 629, p. 171.

effective date of the law, the Administrator of the Wage and Hour Division was forced to remark:

Reports have already come in to the Wage and Hour Division which indicate that in a number of industries in which homework is possible and has been practiced in the past, the passage of the Fair Labor Standards Act has led to an increased use of this method of manufacture.*

He went on to point out that:

All homework is, of course, done on a piece work basis - so much for a certain lot of goods - and where a minimum wage exists there is little doubt that the very existence of homework is a prima facie case that the statute is being evaded. All evidence on the subject points to the fact that work in the home is less effective and less efficient than the same work performed in a factory; and, therefore, that no employer who is required to pay 25 cents or 30 cents an hour can afford to have this work done in the home because it could be done at less cost in his own plant.**

Confirmation of these fears was not long in appearing.

Homework continued to flourish, with wages barely different from those paid in the 1890's.*** Wages of 5 and 10 cents an hour were common. Wrote one homemaker to one of the I.L.G.W.U. locals in November, 1938: "I earn from 12¢ to 14¢ per hour, at the most. Some women at his concern make maybe a little more, but the majority earn even less than I do.**** A knitgoods manufacturer not in contractual relations with the International Ladies' Garment Workers' Union wrote to the manager of its Local 155:

I read in the "Women's Wear" today about your complaint to the wage and hour administrator about women working on home work for as low as seven cents per hour. I want to bring to your attention the fact that you are wrong about this statement, because

* U.S. Wage and Hour Division, Interim Report of the Administrator of the Wage and Hour Division for the Period August 15 to December 31, 1938, part IV, p. 3f.

** Ibid., part IV, p. 5.

*** Report of the Committee on Manufactures on the Sweating System, pp. viii f.

**** Letter from the files of the Knitgoods Workers' Union Local 155 of the I.L.G.W.U.

I know women in Brooklyn and also around Jersey doing embroidery homework for tyrolean sweaters for as low as three cents a piece, and all they can make is two sweaters an hour... I admit that in the twenty years I have been in business, I have never seen such conditions existing before.*

Statements made by homeworkers in 1941 to representatives of the I.L.G.W.U. showed hourly earnings ranging from 15 to 31 cents. The workers reporting these earnings were performing homework on blouses, neckwear, dresses, housecoats, negligees, shorts and skirts. Except for the last item mentioned, where a 40-cent minimum applies, all of these garments call for a 35-cent minimum wage under the terms of wage orders issued by the Administrator of the Wage and Hour Division. Extra compensation for overtime was conspicuous by its absence, according to these statements. Homework handbooks were generally not used. In the few instances where they were used, either they were kept in the employer's possession rather than given to the homeworkers as required, or the hours recorded in the handbooks bore no relation to the actual hours worked. Several of the statements pointed out that the employers made no inquiries as to hours worked.**

Of the innumerable attempts to evade the provisions of the Fair Labor Standards Act, one is particularly noteworthy. Several knitgoods manufacturers organized the Hand Knitcraft Institute and established a "purchase and sales arrangement" whereby home workers "bought" the knitting yarn from them and then "sold" the finished article. The Wage and Hour Division initiated an action against these firms, which was settled by a consent decree in cases of 11 firms.*** Underpayments were estimated at close to \$250,000. The

* Letter from Hirsam Knit Sportswear, Garnerville, N.Y., dated November 17, 1938, from the files of Local 155.

** Statements on file with the Research Department, I.L.G.W.U.

*** Harold D. Jacobs v. Hand Knitcraft Institute, et. al., 2 Labor Cases, 144.

amount of underpayments had to be estimated, there being no way in which exact figures could be secured. It is interesting to note in this connection that subsequently the counsel who represented the Hand Knitcraft Institute sent a memorandum to manufacturers in which he drew attention to hand knitting and crocheting organizations in Maine and New Hampshire, and said: "These cooperatives and others that may follow their example give promise of taking over the hand knitting and hand crocheting industry of the country not only in infants wear but in adult wear."* The Maine "cooperative" receives its orders from New York. According to its sponsor, "the fastest worker" can turn out weekly four crocheted four-piece baby sets - cap, saque, and booties. The average worker makes about three sets a week. For this work they are paid at \$15 per dozen, or on the average \$3.75 a week.** Obviously such weekly earnings are incompatible with the provisions of the Fair Labor Standards Act.

In brief, the net effect of the Fair Labor Standards Act on many employers was to increase their attachment to the homework method of production because it so greatly facilitated evasion of the

* Harold R. Lhove, Memorandum Re Hand Knitting and Crocheting in Maine, January 21, 1941.

** John F. Coggsell, "North Woods Miracle" in The American Magazine, October, 1940, p. 22. This "coop" also makes men's sweaters, knitted sport costumes, booties and moccasins, woolen mittens and gloves (Ibid.).

hours and wages provisions of the law.* In this respect, experience under the Act to date supports the conclusions based on experience with previous attempts to regulate homework - namely, that violation and evasion of the law is an inherent characteristic of homework which no system of regulation can eradicate. This fact is increasingly recognized in State legislation. When, in 1936, the International Association of Governmental Labor officials approved a "model bill" providing for more stringent regulation by the states, they incorporated into the draft a grant of broad powers to the State authorities to abolish homework, industry by industry.** At the present time, a number of states, including those where homework is most important,

* An analysis of compliance with the Fair Labor Standards Act in the jewelry industry made by the Wage and Hour Division revealed that the following practices were resorted to by homework employers to evade the provisions of the Act: "1. A substantial failure to obtain record-keeping handbooks deemed by the Administrator to be necessary for the enforcement of the Act; 2. Where handbooks have been obtained, a widespread failure to record the necessary information adequately; 3. A common practice of falsifying the record of hours worked by one device or another; 4. Universal violation of the minimum wage provisions of the Act in every homework inspection completed to date; 5. Probabilities of extensive violations of Section 7 and of the child-labor provisions of the Act; 6. A system of fixing piece rates and a method of distributing work which makes violations inevitable." (U.S. Wage and Hour Division, Industrial Homework Under the Fair Labor Standards Act in the Jewelry Industry: a Statement Presented Before the Administrator's Hearing on the Minimum Wage Recommendation of Industry Committee No. 17 for the Jewelry Manufacturing Industry, January 21, 1941, p. 34). Unquestionably, practices in the apparel trades are in no way different.

** U.S. Bureau of Labor Statistics, Bulletin No. 629, p. 162f.

have laws looking toward the abolition of homework.* Several states have issued orders prohibiting homework in specific industries. In the State of New York, three such orders have been issued to date: for the men's and boys' outer clothing, men's and boys' neckwear, and artificial flower and feather industries.** Connecticut has abolished virtually all homework within its borders.*** Oregon, under its general authority to regulate the conditions of employment of women and minors, has issued an order prohibiting homework in the needle-craft occupations.****

The experience of these states with the elimination of homework has been uniform. Manufacturers have encountered little difficulty in making the adjustment to factory operations, and factory employment has increased, many former homeworkers being taken inside, despite the fact that evasion through the shipment of work to other states has continued to be a problem.*****

* U.S. Division of Labor Standards, Bulletin No. 26: Industrial Homework Legislation and its Administration, p. 4. Among these States are California, Connecticut, Massachusetts, New York, Pennsylvania and Rhode Island (Ibid., pp. 4 and 51). At the time of writing, both houses of the New Jersey Legislature have passed a similar measure which now awaits the Governor's signature.

** Ibid., pp. 86-91.

*** Connecticut Department of Labor and Factory Inspection, Report, 1934-1936, p. 33.

**** U.S. Division of Labor Standards, Bulletin No. 26, p. 4.

***** New York Division of Women in Industry and Minimum Wage, Report to the Industrial Commissioner on a Review of the Operation of Homework Order No. 3 and Recommendation for Continued Regulation of Homework in the Artificial Flower and Feather Industry, October 16, 1939, pp. 3-5; Connecticut Department of Labor and Factory Inspection, Report, 1934-1936, p. 37.

The foregoing pages establish the fact that the homework system of production has outlived its usefulness. Since the advent of the factory system of production, it has steadily declined in importance, and today it is but a shadow of its former self. Its sole basis for continuance is low wages and long hours. With the limitations placed on hours and wages under the Fair Labor Standards Act, the survival of homework is impossible except on the basis of violation of the law. These facts, standing by themselves, point to the futility of attempts to regulate homework. They are buttressed by decades of experience with actual attempts at regulation. Under the circumstances, to permit homework to continue is to sanction violation of the law. If enforcement of the Act is to be effective, cognizance must be taken of the universally acknowledged fact that the evils of homework will be eliminated only with the abolition of the practice itself.

APPENDIX

INDUSTRIAL HOMEWORK PROVISIONS IN AGREEMENTS OF THE INTERNATIONAL
LADIES' GARMENT WORKERS' UNION

As of July 15, 1941 there were on file with the Research Department of the International Ladies' Garment Workers' Union 39 collective agreements (i.e., agreements with associations of employers applicable to the individual firms belonging to the association) and 280 independent agreements (i.e., agreements with individual firms) which specifically prohibit homework. The following examples are typical of the language used in these agreements:

"No work shall be given to workers to be made at home."
(Agreement with Affiliated Dress Manufacturers, Inc., New York City)

"No homework is to be permitted."
(Agreement with Dress Association of Los Angeles)

"It is further agreed that no work shall be taken out from the factory to be done at home and that same shall constitute a violation of this agreement, and the employer and the workers shall be subject to penalties."
(Agreement with Chicago Association of Dress Manufacturers)

"The Association agrees in principle to the abolition of homework."
(Agreement with Placers, Stitchers and Embroidery Manufacturers' Association, Inc., New York City)

Agreements explicitly prohibiting homework are in effect in the States of California, Connecticut, Illinois, Massachusetts, Missouri, Michigan, New Jersey, New York, Ohio and Pennsylvania. Analysis of these contracts by industry reveals the following distribution:

<u>Industry</u>	<u>Number of</u>	
	<u>Collective</u> <u>Agreements</u>	<u>Independent</u> <u>Agreements</u>
Dresses	12	40
Embroidery	3	39
Sportswear & rainwear		9
Underwear	4	90
Children's wear	1	2
Blouse and skirt	4	10
Corsets	1	3
Robes		1
Belts		1
Custom made garments		36
Covered buttons	1	20
Buttonholes	1	2
Women's neckwear		10
Plastic buttons	1	1
Artificial flowers*	1	17
Total	39	280

In a small number of cases (involving 7 collective and 34 independent agreements) the union, not yet able to abolish homework has had to accept provisions permitting homework in some form. In general, these agreements cover employers who face a substantial amount of competition from non-union manufacturers who resort to homework on a large scale. Under the circumstances, union insistence on the cessation of homework would impose a serious competitive disadvantage on the employers under contract with it. Toleration of homework under union agreements, however, is based on recognition that homework is an evil and that its abolition is desirable. Its complete abolition in the industries involved awaits either governmental action which would apply to all employers alike or the extension of union control to the point where the unionized employers could consent to refrain from employing homeworkers without unduly damaging their competitive position. Pending abolition, agreements permitting the continuance of homework include measures for limiting or controlling it.

Thus, one of the two collective agreements in the Chicago embroidery industry permits homework only when the union is unable to supply experienced shop workers or when the existing shop facilities for such work are fully engaged. The other Chicago embroidery agreement, covering the pleating and stitching trade, prohibits homework on any operation performed in the factory. The Philadelphia embroidery contract prohibits homework except on hand work.

* One collective and four independent agreements in the New York artificial flower industry prohibit homework except when performed by such workers as are permitted to do so under the terms of Order No. 3 prohibiting industrial homework in the artificial flower and feather industry, issued by the New York State Department of Labor. The Order permits homework only by those who were licensed homeworkers in the industry prior to March 10, 1938 and who are unable to adjust to factory work because of age, physical or mental disability or because their presence at home is required to care for an invalid.

In the belt industry, 3 collective agreements and 26 independent agreements permit homework. Two of the independent agreements are with Philadelphia manufacturers. One provides that no homework may be given out without prior union approval; and the other prohibits homework in all occupations except lacing or braiding of belts. The remaining agreements, all of which are with New York City employers, provide for prohibition of homework except on buckles, ornaments, lacing and braiding.

The only agreements in the children's dress industry which permit homework are with 8 manufacturers in Southern Texas. Under these agreements, hand embroidery is the only operation permitted to be done by homeworkers. However, the vigilance of the union with regard to the piece rates paid to homeworkers has resulted in the transfer to the factories of a large part of this work; and today, the number of homeworkers has shrunk to a fraction of the number employed a few years ago.

The collective agreement with a New York City association of neckwear and scarf manufacturers provides that any member of the association employing homeworkers must secure a certificate showing that such persons are free from any contagious disease; that rates of pay for homeworkers shall be not less than the rates paid in the factory; that the names and addresses of all homeworkers shall be filed with the union; and that no employer may distribute homework unless he employs at least 6 sewing machine operators in his factory.

This last mentioned agreement offers an interesting illustration of the gradual elimination of homework under union agreements. The agreement signed by the association in December 1936, for a period of one year, provided that:

"The parties to this agreement recognize that it is advisable to minimize, control and, if possible, to eliminate homework existing in this industry; that the control of homework is essential for the protection of labor standards and for avoiding unfair competition."

Accordingly, in addition to the regulations referred to above, no employer was to distribute homework unless "at least 60 per cent of the articles of each type are produced in a factory" owned by the firm employing homeworkers. When this agreement was renewed for an additional year, the percentage of each type of articles required to be produced in the factory was raised to 66 2/3 per cent. This percentage was increased a year later to 75 per cent. This provision is now in force.

In addition to these contracts which contain specific references to homework, the files of the Research Department, as of July 15, 1941, contain 29 collective and 547 independent agreements which make no mention of the subject. In many instances, particularly as regards agreements with individual firms, the absence of a homework provision is accounted for by the fact that the issue of homework has never arisen as a practical matter. Some agreements, while making no specific reference to industrial homework, actually prohibit it by

other types of provisions, samples of which are given below:

"All garments produced by the Employer shall be made up on his own premises"
(Agreement with the Twin Cities Dress Manufacturers Association)

"The Employer agrees to have its excess work done in none but Union shops under contractual relations with the said Union"
(Agreement with Chic Manufacturing Co., Peoria, Ill.)

"... the Employers are engaged in the manufacture of dresses ... and have their work performed in their own shops or by contractors ..."
(Agreement with Royal Miss, Inc., Scranton, Pa.)

"The Association agrees that its members shall employ no workers who are not in good standing with the Union"
(Agreement with the Associated Garment Industries, St. Louis, Mo.)

"The Council agrees that all of its members who produce all or part of their garments on their own premises will maintain union shops, and that all of its members who have their garments produced by sub-manufacturers or contractors, or who purchase their garments from other manufacturers, merchants, jobbers, or wholesalers will deal only with such firms as conduct union shops."
(Agreement with Industrial Council of Cloak, Suit and Skirt Manufacturers, Inc., New York)

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